

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SERGEANTS BENEVOLENT ASSOCIATION  
HEALTH & WELFARE FUND, individually and  
on behalf of itself and all others similarly situated,

Plaintiff,

v.

ACTAVIS, PLC and FOREST LABORATORIES,  
LLC, MERZ PHARMA GMBH & CO., KGAA,  
AMNEAL PHARMACEUTICALS, LLC, TEVA  
PHARMACEUTICALS USA, INC., TEVA  
PHARMACEUTICAL INDUSTRIES, INC.,  
BARR PHARMACEUTICALS, INC., COBALT  
LABORATORIES, INC., UPSHER-SMITH  
LABORATORIES, INC., WOCKHARDT  
LIMITED, WOCKHARDT USA LLC, SUN  
PHARMACEUTICALS INDUSTRIES, LTD.,  
DR. REDDY'S LABORATORIES LTD., and DR.  
REDDY'S LABORATORIES, INC.,

Defendants.

**JOINT STATUS REPORT REGARDING PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF THE SETTLEMENTS WITH  
DEFENDANTS WOCKHARDT LIMITED, WOCKHARDT USA LLC, AMNEAL  
PHARMACEUTICALS LLC, SUN PHARMACEUTICAL INDUSTRIES LTD.,  
AND UPSHER-SMITH LABORATORIES, LLC.**

This joint status report is submitted on behalf of Plaintiff Sergeants Benevolent Association Health & Welfare Fund and Defendants Wockhardt Limited, Wockhardt USA LLC (“Wockhardt”), Amneal Pharmaceuticals LLC, Sun Pharmaceutical Industries Ltd., and Upsher-Smith Laboratories, LLC<sup>1</sup> (together, the “Settling Defendants” and with Plaintiff, the “Settling Parties”), in response to the Court’s August 20, 2019 order setting a status conference regarding

<sup>1</sup> Upsher-Smith Laboratories, Inc., which was originally named as a defendant in the Complaint, has been succeeded in interest by Upsher-Smith Laboratories, LLC.

Plaintiff's August 16, 2019 motion for preliminary approval of its settlement agreements with the aforementioned defendants. In that order the Court has requested, among other things, that the Settling Parties be prepared to explain the material impact of certifying two different settlement classes: one for Plaintiff's settlement agreement with Wockhardt, and the other for Plaintiff's settlement agreement with Amneal Pharmaceuticals LLC, Sun Pharmaceutical Industries Ltd., and Upsher-Smith Laboratories, LLC.

As originally executed, the only difference between the two proposed settlement classes was the end date of the class period. Since the issuance of the Court's order, however, the Settling Parties have discussed the proposed class definitions and Plaintiff and Wockhardt have agreed to modify the class definition provided in their settlement agreement so that it matches the definition in Plaintiff's agreement with Amneal Pharmaceuticals LLC, Sun Pharmaceutical Industries Ltd., and Upsher-Smith Laboratories, LLC. With this change, the proposed class definition for both settlement agreements would include, subject to certain exclusions:

All persons or entities in the United States and its territories who indirectly purchased, paid and/or provided reimbursement for some or all of the purchase price for branded Namenda IR 5 or 10 mg tablets, or Namenda XR capsules, for consumption by themselves, their families, or their members, employees, insureds, participants, or beneficiaries, other than for resale, at any time during the period from April 14, 2010 and continuing until the anticompetitive effects of [Settling Defendants'] unlawful conduct ceases (the "Class Period").

This is also the same class definition that is provided in Plaintiff's February 17, 2016 First Amended Class Action Complaint. The Settling Parties look forward to further discussing the proposed settlement agreements at this Friday's conference.

Respectfully submitted,

/s/Peter Safirstein

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<sup>2</sup> Electronic signatures provided with consent in accordance with Rule 8.5(b) of the Court's ECF Rules and Instructions.